

AMENDED IN ASSEMBLY SEPTEMBER 7, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1160

Introduced by Assembly Member Hill

February 18, 2011

~~An act to amend Section 1798.90.1 of the Civil Code, relating to personal information. An act to add Article 6 (commencing with Section 8290) to Chapter 7 of Division 4 of the Public Utilities Code, relating to public utility employees.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1160, as amended, Hill. ~~Personal information. Public utility employees: whistleblowers.~~

~~(1) Existing law permits a business to swipe a driver's license or identification card issued by the Department of Motor Vehicles in any electronic device for specified purposes, including to verify age. Existing law prohibits a business from retaining or using any of the information obtained by that electronic means for any purpose other than those that are permitted. Existing law makes a violation of these provisions a misdemeanor.~~

~~This bill would prohibit a purchaser of alcoholic beverages from being required to produce his or her driver's license or identification card for the purpose of verifying age if the purchaser reasonably appears to be 40 years of age or older. By expanding the definition of a crime, this bill would impose a state-mandated local program.~~

~~(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities. The California Constitution~~

authorizes the commission to establish rules for all public utilities, subject to control by the Legislature.

This bill would require the commission to establish a comprehensive whistleblower protection program to protect public utility employees from management retaliation for bringing information to the commission or other public entities regarding unreported safety issues. The bill would require a public utility to file a completed report with the commission within 30 days as to any final judgment, arbitration award, compromise, or settlement in excess of \$50,000 in any civil action brought by an employee or former employee of the utility against the utility. The bill would authorize the commission to limit this reporting requirement to those particular types of claims that the commission determines are likely to involve claims of retaliation, or to exclude from the duty to report particular claims that the commission determines are highly unlikely to involve claims of retaliation. The bill would require the commission to develop and adopt a report form to be used by a public utility to comply with the reporting requirements. The bill would require civil penalties to be imposed for violation of the reporting requirements.

Under existing law, a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the bill would require the commission to adopt rules for the protection of whistleblowers and a violation of these rules would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 6 (commencing with Section 8290) is
2 added to Chapter 7 of Division 4 of the Public Utilities Code, to
3 read:

Article 6. Whistleblower Protection

8290. The commission shall establish a comprehensive whistleblower protection program to protect public utility employees from management retaliation for bringing information to the commission or other public entities regarding unreported safety issues. For these purposes, “other public entities” includes the whistleblower hotline maintained by the Attorney General pursuant to Section 1102.7 of the Labor Code.

8291. (a) (1) Every public utility shall file a completed report with the commission within 30 days as to any final judgment, arbitration award, compromise, or settlement in excess of fifty thousand dollars (\$50,000) in any civil action brought by an employee or former employee of the utility against the utility.

(2) It is the intent of the Legislature that the commission be informed of any significant payment made by a public utility to an employee or former employee where there may be any claim of management retaliation for bringing information to the commission or other public entities regarding unreported safety issues, and the commission may limit the duty to report pursuant to paragraph (1) to those particular types of claims that the commission determines are likely to involve claims of retaliation, or to exclude from the duty to report particular claims that the commission determines are highly unlikely to involve claims of retaliation.

(3) The commission shall develop and adopt a report form to be used by a public utility to comply with the requirements of paragraph (1). Until the commission adopts a report form, the report shall include a copy of the complaint or claim made by the employee or former employee and any written judgment, arbitration award, or agreement for the compromise or settlement of an action or claim.

(b) (1) The commission shall assess a penalty of not more than one million dollars (\$1,000,000) against a public utility for a willful failure to comply with the requirements of subdivision (a).

(2) The commission shall assess a penalty of not more than five hundred thousand dollars (\$500,000) for a negligent failure to comply with the requirements of subdivision (a).

(3) The commission may enforce and collect a penalty pursuant to Chapter 11 (commencing with Section 2100) of Part 1 of Division 1.

1 *SEC. 2. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

10 ~~SECTION 1. Section 1798.90.1 of the Civil Code is amended~~
11 ~~to read:~~

12 ~~1798.90.1. (a) (1) Any business may swipe a driver's license~~
13 ~~or identification card issued by the Department of Motor Vehicles~~
14 ~~in any electronic device for the following purposes:~~

15 ~~(A) To verify age or the authenticity of the driver's license or~~
16 ~~identification card. A purchaser of alcoholic beverages shall not~~
17 ~~be required to produce his or her driver's license or identification~~
18 ~~card for the purpose of verifying age if the purchaser reasonably~~
19 ~~appears to be 40 years of age or older.~~

20 ~~(B) To comply with a legal requirement to record, retain, or~~
21 ~~transmit that information.~~

22 ~~(C) To transmit information to a check service company for the~~
23 ~~purpose of approving negotiable instruments, electronic funds~~
24 ~~transfers, or similar methods of payments, provided that only the~~
25 ~~name and identification number from the license or the card may~~
26 ~~be used or retained by the check service company.~~

27 ~~(D) To collect or disclose personal information that is required~~
28 ~~for reporting, investigating, or preventing fraud, abuse, or material~~
29 ~~misrepresentation.~~

30 ~~(2) A business may not retain or use any of the information~~
31 ~~obtained by that electronic means for any purpose other than as~~
32 ~~provided herein.~~

33 ~~(b) As used in this section, "business" means a proprietorship,~~
34 ~~partnership, corporation, or any other form of commercial~~
35 ~~enterprise.~~

36 ~~(c) A violation of this section constitutes a misdemeanor~~
37 ~~punishable by imprisonment in a county jail for no more than one~~
38 ~~year, or by a fine of no more than ten thousand dollars (\$10,000),~~
39 ~~or by both.~~

1 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
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8 ~~the meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~

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